

The arguments were heard on 7th October, 1980 and 1st December, 1980 and award was reserved. The brief facts of the case was as under:—

ISSUE NO. 1:

The workman raised a demand through Exhibit W-6, in which he had mentioned that he had been removed from the service without assigning any reason in writing by the management. The reason of his removal was that one Shri Vishava Nath who was Cashier of the respondent company had got a helper employed in the respondent company who worked in the section of the workman claimant. This helper used to sleep on duty at night time. This complaint was made verbally by this workman claimant, as he was afraid because of less production on that score, this workman claimant will be held responsible. On making this complaint on 16th March, 1978, the management removed this claimant workman illegally and with a revengeful idea and this removal was against section 2-A of the Industrial Disputes Act. This demand was raised on 18th March, 1978 before the Labour Department on which a reference on 19th July, 1978 was made, but in the written statement filed by the respondent on 27th June, 1979 the name of the respondent was found incorrect and therefore, the demand had to be raised in the correct name through this demand notice dated 17th August, 1979. The claimant had demanded his reinstatement with full back wages, failing which he would be constrained to bring legal action and whole liability in that case was to be of the respondent. The management in their written statement refuted the allegations of the workman and alleged that this workman claimant Shri Dudh Nath got into wordy altercation with another co-workman Shri Daya Ram in a night shift. The management asked both the workmen to apologise and to compromise. Shri Daya Ram apologised, but the workman claimant Shri Dudh Nath instead of doing so absented himself from duty without any information. He straight away vanished from duty for a considerable period. The

management wrote two letters asking him to be present on duty as the work was suffering and his services had not been terminated till 31st May, 1978. Thereafter his name was removed from the muster-roll of the company for his long absence without information. The management however alleged that the workman had joined M/s. Shanti Silicate and Chemical Industries, Plot No. 70, Sector 27-C, 12/4, Mathura Road, Faridabad where he was working till the day the management filed their written statement on 10th January, 1980. The management refuted the allegations of the workman. Both the parties lead their evidence. From the side of the management three witnesses Shri B. M. Mathur, Manager of the respondent company, Mehar Chand, partner of the respondent company and Shri G. C. Gupta, manager of M/s. Shanti Silicate and Chemical Industries, Faridabad were produced who made their statement on oath and closed its case. In his statement Shri B. M. Mathur, manager of the respondent company corroborated the allegations levelled, against the workman in the written statement filed by the management. He further stated that when the workman claimant, after the verbal quarrel with the above said Daya Ram vanished from his duty, two letters Exhibit M-1 and M-3 were sent to the workman at his address, through registered A.D. covers under postal registration receipt Exhibit M-2 and Exhibit M-4. This witness also produced Exhibit M-5 the attendance register of the company where this workman has been shown as absent from 16th March, 1978 to 31st May, 1978. This register is regularly maintained register and Exhibit M-5 is the correct photo copy of this register. The original register was seen and returned. This witness further stated that immediately after leaving the respondent company, the workman Shri Dudh Nath accepted a job with M/s. Shanti Silicate and Chemical Industries, Faridabad, where he was working till that date he made his statement i.e. 6th May, 1980 at a salary of Rs. 250/- p.m. He has also made a statement that from 1st June, 1978 till the date he was working with the above said company. He has further stated that this

workman got Rs. 200/- per month from the respondent when he worked with them. He has been put to heavy cross examination at length but nothing could come out of him to divert him from his stand Exhibit M-1 and M-3 were sent at the address by the respondent which is admittedly correct given by the workman at the time of his appointment with the respondent. This witness produced Exhibit M-6 a certificate from Shanti Silicate and Chemical Industries, Faridabad to corroborate his statement that this workman Shri Dudh Nath has been working in some other company from 1st June, 1978.

MW-2 Shri Mehar Chand admitted that a real brother of the workman claimant had worked in a factory of the respondent situated at Ghaziabad with the same name and style and who died due to electrocution and their company got into a settlement with the father of deceased, which is Exhibit W-1. The name of deceased was Vijay who had a minor son at the time of his death. The settlement was that the respondent company unit at Ghaziabad was to pay Rs. 3,000/- as compensation to the minor son and this amount was to be deposited in a bank in the name of their child because the father of deceased Vijay was afraid that the mother of the son may not re-marry and the child be deprived of his claim. He reported that the said amount was regularly being deposited in the bank as per settlement. The accounts of the respondent factory was in State Bank of India, Sarai Khawaja, Faridabad. This witness was directed to produce the certificate of the bank about this deposit in this court. The certificate was produced by this witness MW-2 in this court on 22nd July, 1980, which has been exhibited as M-7. The original was seen and returned to the respondent management witness the day he produced Exhibit M-7. According to this Exhibit M-7, Rs. 3,251.10 P. were standing in the account of Shri Budh Ram minor son of Shri Vijay deceased, brother of the workman on 16th June, 1978. This is though one Shri Hari Mittar Aggarwal care of respondent.

MW-3 Shri G. C. Gupta, manager of M/s. Shanti Silicate and Chemical works, Faridabad stated on oath that he knew the claimant workman personally. He had brought the attendance register of the company and deposed that he was working there in his company since 1st June, 1978 till date he made his statement in this court i.e. 22nd July, 1980. His salary was Rs. 265/- p.m. This witness correctly identified the workman present on that day in this court. He deposed that the workman claimant was working in their company as helper for loading and unloading purposes. He fully corroborated the stand taken by the respondent in their written statement.

Now the workman appeared as his own witness in which he stated that he had been removed by the respondent because the respondent had not deposited Rs. 3,000/- in the Bank as per settlement Exhibit M-1. He stated that only Rs. 1,000/- had been deposited in the bank, instead of Rs. 3,000/- as per Exhibit W-1 settlement. The claimant workman, further deposed that since he stressed and pressed upon the management for the deposit of those Rs. 2,000/- of Exhibit W-1, he was removed from the service by the respondent.

To me this contention of the workman does not at all appeal because the amount stands deposited in the name of the minor sons of the deceased, brother of the claimant Shri Dudh Nath and Exhibit M-7 is a document which proves it beyond any shadow of doubt. This story does not stand proved because the workman has not stated a word in his two demand notices, through which he raised his claim. The story is quite wrong also of a helper who was got appointed in the respondent company by Shri Vishwa Nath, cashier. This is all of an after thought and concoction as no such allegations are forthcoming in the demand notice. The only and first document on which the whole kessel of the workman claimant stands without deviation change alteration etc. That stand creates doubt in the mind about the truth of the claimant workman. Moreover, the workman claimant has not said a single word about the story of a helper got appointed in the respondent company by the cashier, who used to sleep on night duty in the respondent company.

I do not understand how could this claimant be held responsible for sleeping of that workman on night duty. He was certainly not an incharge of the section in which the workman worked nor was he a supervisor. The workman has admitted his address to be correct on Exhibit M-1 and Exhibit M-3. According to the settlement Exhibit W-1, the amount of Rs. 3,000/- was to be deposited in the bank in the denomination of Rs. 100/- per month, which is clear from Exhibit M-7 and it was being paid to the bank, regularly.

The workman has said nothing about his absence from the factory from 16th March, 1978 to 31st May, 1978 without any information or reason. The regular maintained record of the respondent is enough to corroborate the contention of the respondent management. I found no force in the arguments of the workman claimant in this case. He has been working with M/s. Shanti Silicate and Chemical works, Faridabad, whose complete address has been given in the written statement filed by the respondent management. The workman only denied existence of such a factory being in existence. By denying the suggestion to MW-3, but for the purpose of reaching any conclusion the workman has not uttered a word and produced no evidence to show that such a company is not at all in existence. The manager of the company made a statement on oath and in presence of the full address of the company, where this claimant workman got his re-employment on higher wages, there was no bar to the workman to produce any neighbouring evidence of that company to show me that the Silicate company does not exist as mentioned in the written statement. Merely denial of a fact does not entitle a man to be believed of the fact.

After having discussed the fact of the case in details, I am of the view that this workman actually absented himself from duty without assigning any reason or information to the respondent. The respondent are right in striking off his name from the muster roll for the long absence

without any reason or information. I therefore, decide this issue No. 1 in favour of the management and against the workman.

ISSUE NO. 2:

As I have decided Issue No. 1 in favour of the respondent and against the workman claimant. This means that it is not a case of termination of the services of the workman by the respondent rather in this case the termination has come out of the willful absence of the workman from duty for a very long period and respondent management was left with no choice except to strike off the name of the workman from the muster roll of the respondent company. This termination of the services of the workman is offshoot of the voluntary absence of the workman from the duty for a long period which amounts to abandonment of the services of the workman of the respondent. I, therefore, decide this issue also against the workman and in favour of the respondent. I hold that termination of the services of the workman is proper, justified and in order. The workman claimant Shri Dudh Nath is not entitled to any relief. The parties shall bear their own costs.

This be read in answer to this reference.

The 31st December, 1980.

ISHWAR PRASAD CHAUDHRY,

Presiding Officer,
Labour Court,
Haryana, Faridabad.

Endorsement No. 30, dated the 6th January, 1981.

Forwarded (four copies) to the Secretary to Government Haryana, Labour & Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

ISHWAR PRASAD CHAUDHRY,

Presiding Officer,
Labour Court,
Haryana, Faridabad.